



SUSTAINABLE GROUNDWATER MANAGEMENT ACT

Probationary Designation and Groundwater Regulation by the State Water Board

This fact sheet offers summary information regarding how the state will regulate groundwater use if local management is found to be inadequate under the Sustainable Groundwater Management Act (SGMA). This fact sheet, and others, are available at www.waterboards.ca.gov/gmp.

Groundwater is a limited natural resource that Californians use for many purposes. In the state's high- and medium- priority groundwater basins, SGMA requires local groundwater sustainability agencies (GSAs) to develop and implement groundwater sustainability plans (plans) so that these uses can continue in the future.

If GSAs do not sustainably manage groundwater use in their basin, the State Water Resources Control Board (State Water Board or Board) can step in to manage the basin in a process called "state intervention." State intervention is SGMA's guarantee that sustainability goals are met. But state intervention may be costly for groundwater extractors and give them little influence over how the state regulates their groundwater extraction. The Board, the Department of Water Resources (DWR), and other organizations may be able to work with GSAs, groundwater extractors, and others to avoid state intervention. Please reach out if interested in assistance.

Steps in the Intervention Process

Triggers

The state will evaluate GSA efforts and basin conditions. During evaluation, lack of plans, lack of coordination, inadequate plans, or inadequate implementation can trigger the state intervention process for a high- or medium-priority basin. The specific state intervention triggers are listed in the table on the following page.¹

¹ Please refer to the Act regarding triggers if you are in a region covered by an alternative plan submitted to the DWR.



Any one of these conditions makes the state intervention process possible

Triggering Condition	If After
Basin is not covered by a GSA(s) <i>Water code section 10735.2(a)(1)</i>	June 30, 2017
Basin is in critical overdraft (DWR finding) <i>and</i> basin is not covered by plan(s) or plans in basin are not coordinated <i>10735.2(a)(2)</i>	Jan. 31, 2020
Basin is in critical overdraft (DWR finding) <i>and</i> DWR, in consultation with the Board, fails a plan or determines a plan is not being implemented in a manner likely to achieve sustainability <i>10735.2(a)(2) and 10735.2(a)(3)</i>	Jan. 31, 2020
Basin is not in critical overdraft (DWR finding) <i>and</i> basin is not covered by plan(s) or plans in basin are not coordinated <i>10735.2(a)(4)</i>	Jan. 31, 2022
Basin is not in critical overdraft (DWR finding) but is in long-term overdraft (Board determination) <i>and</i> DWR, in consultation with the Board, fails a plan or determines a plan is not being implemented in a manner likely to achieve sustainability <i>10735.2(a)(4) and 10735.2(a)(5)(A)</i>	Jan. 31, 2022
Basin is not in critical overdraft (DWR finding) nor long-term overdraft (Board finding) but there are significant depletions of interconnected surface waters (Board determination) <i>and</i> DWR, in consultation with the Board, fails a plan or determines a plan is not being implemented in a manner likely to achieve sustainability <i>10735.2(a)(5)(B)</i>	Jan. 31, 2025

Hearing

After a triggering condition occurs, the State Water Board may designate a basin probationary after providing notice and holding a public hearing. At the hearing, interested parties will have the opportunity to address the Board. A probationary designation will identify the deficiencies that led to intervention and potential actions to remedy the deficiencies.

Probation

Once a basin has been designated probationary, the Board may require groundwater extractors to install meters, measure and report all groundwater extractions, and pay fees to cover the cost of Board activities. The Board may also conduct investigations and gather data necessary for sustainable groundwater management.

Opportunity to End State Intervention

Local efforts will have the opportunity to fix the deficiencies that resulted in designation of the basin as probationary. Deficiencies may include lack of an agreement among GSAs in the basin to coordinate multiple plans, data gaps in the plans, or insufficient groundwater management efforts to achieve the sustainability goal. Groundwater extractors will be given a limited time (perhaps as short as 180 days) to address deficiencies before the Board may develop an “interim plan.”

State Water Board Imposition of Interim Plan

The Board may develop and implement an interim plan for a probationary basin if the Board determines that a local agency has not fixed the deficiencies that resulted in the probationary designation. The Board will adopt the interim plan through a hearing process, similar to the probationary designation. An interim plan is intended to be a temporary measure to protect groundwater until effective local management is in place.

An interim plan will include corrective actions, a schedule for those actions, monitoring, and enforcement. An interim plan will likely focus on reducing groundwater use in the basin to sustainable levels as soon as practical. An interim plan may include elements of an existing plan or adjudication that the Board finds would help meet the basin’s sustainability goal.

End of State Water Board Management

To end State Water Board management of groundwater, GSAs will have to demonstrate to the Board (which will consult with DWR) their ability and willingness to manage groundwater sustainably and address the issues that caused state intervention. This may require changes to the groundwater sustainability plans, revision of coordination agreements among the GSAs, pumping restrictions, or other measures to provide assurances that ongoing local management will be effective.

Adjudication Proceedings: A Detour with the Same Destination

The Board has authority to act if a triggering event occurs, regardless of whether the basin is going through an adjudication. Filing an adjudication will not delay or avoid the SGMA process and will not prevent state intervention. Courts must manage any groundwater adjudication proceeding in a manner consistent with the attainment of sustainable groundwater management within the timeframes set by SGMA. Any judgment entered in an adjudication action must not impair the ability of the basin’s GSAs to comply with SGMA.

Reporting Requirements Require Comprehensive and Accurate Data

Probationary designation and interim plans may require pumpers to submit groundwater extraction reports. These reports must be submitted by well owners or operators (or their agents) to the State Water Board electronically. Reporters are required to provide extraction volumes, well details, well locations, the locations of parcels where groundwater is used, and

other information deemed necessary by the Board. Extractions must be measured by a method satisfactory to the Board.

More information on reporting can be found at www.waterboards.ca.gov/water_issues/programs/gmp/reporting.html.

Required Fees

The Board is required to set fees to recover the cost of probation and intervention activities. The amount of the fees depends on factors such as costs associated with data gathering, enforcement activities, and California Environmental Quality Act (CEQA) compliance. The current annual fee for groundwater extractions in a probationary basin is a base fee of \$300 per well and \$40 per acre-foot of water extracted. Fees are collected with each annual groundwater extraction report. Late reporters are subject to late fees and may be subject to additional administrative liability or misdemeanor penalties.

More information on fees can be found at www.waterboards.ca.gov/water_issues/programs/gmp/fees.html.

Sustainability is at the Basin Scale

The intent of SGMA is to reach groundwater sustainability at the basin scale. Close coordination at the local level will help. While the Board may focus probation and interim plan efforts in specific parts of basins, the Board must consider the entire basin when deciding on a course of action. Reasons for a basin-scale approach include:

- ✓ Pumping volumes must be made consistent with sustainable yield, which is defined at the basin scale.
- ✓ The Board's interim plan must be consistent with water right priorities, which typically requires consideration of all rights to extract groundwater at the basin scale.
- ✓ Basin-wide data collection is necessary to determine where efforts should be focused or if efforts should be basin-wide.

SGMA's Interaction with State and Regional Board Authorities

SGMA does not supersede any existing State Water Board or Regional Water Quality Control Board authorities nor do these other authorities supersede SGMA. The Board will take other legal and policy priorities into account when weighing how to proceed with state intervention. Intervention planning may include consideration of the effects of groundwater extraction on public trust resources, drinking water needs of disadvantaged communities, and the human right to water.²

² Information on the human right to water can be found at https://www.waterboards.ca.gov/water_issues/programs/hr2w/.

GSAs may find value in harmonizing their activities under SGMA with other efforts (of the GSAs or other parties) to meet requirements of other state or local regulatory programs. Contact the State Water Board's SGMA program at SGMA@waterboards.ca.gov to learn more about how SGMA can be coordinated with other programs at the State and Regional Water Boards.

For More Information

This fact sheet and additional information on SGMA are available at the State Water Board website: www.waterboards.ca.gov/gmp.

The Board's SGMA program can be contacted at SGMA@waterboards.ca.gov or 916-322-6508.

These online resources may be updated. Parties interested in updates are encouraged to subscribe to the Board's Groundwater Management email list in the General Interests section at https://www.waterboards.ca.gov/resources/email_subscriptions/swrcb_subscribe.html.

Additional SGMA information is also available from DWR at www.water.ca.gov/SGMA.

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